

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

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Before the court is the State of Nevada’s Emergency Motion to Quash Subpoenas/Motion for Protective Order (#49), plaintiffs’ Opposition (#52), the State’s Reply (#54), and the State’s Memorandum Regarding Documents (Sealed Document (#57)). The State requests the court to quash the deposition subpoena of Michael Hedrick and the documents subpoena for the files of the Nevada Equal Rights Commission in the matter of John Keenan v. Toys R Us, Inc., NERC# 0114-02-380L.

Nevada law provides that investigative notes or reports made by the Commission must be kept confidential until the Commission has determined to conduct a hearing on the matter. NRS 233.190.4(b) and 190.6. Once the Commission proceeds with a hearing, confidentiality “is no longer required.” § 233.190.6; *see also Heyne v. Caruso*, 69 F.3d 1475, 1483-84 (9th Cir. 1995) (“Once the NERC has determined to conduct a hearing on the matter, the [investigative] report is no longer confidential”). Although the Commission did not determine to conduct a hearing on Keenan’s charge of discrimination, the same charge of discrimination is now the subject of this litigation. The continued confidentiality of the Commission’s investigative notes or reports, except to the extent they may identify a witness who was guaranteed anonymity, is therefore as unwarranted now as it would be if a hearing were conducted by the Commission.

1 Accordingly, and for good cause shown,

2 IT IS ORDERED that the State of Nevada's Emergency Motion to Quash Subpoenas/Motion
3 for Protective Order (#49) is DENIED.

4 IT IS FURTHER ORDERED that the stay of the Hedrik deposition entered by the undersigned
5 on November 28, 2007 is hereby lifted.

6 DATED this 17th day of December, 2007.

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9 **LAWRENCE R. LEAVITT**
10 **UNITED STATES MAGISTRATE JUDGE**

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